

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BRYANT KEITH YOUNG,

Plaintiff,

v.

CIVIL NO. 1:23-CV-29
(KLEEH)

WEST VIRGINIA UNIVERSITY,
WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS, and
DR. KATHLEEN O'HEARN RYAN,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 24]

On March 20, 2023, the plaintiff, Bryant Young ("Young"), filed a complaint alleging several causes of actions based on allegations of events arising during his enrollment as a student at West Virginia University [Dkt. No. 1]. After Defendants moved to dismiss the complaint for failure to state a claim [ECF No. 12], Young moved to amend his complaint [ECF No. 15]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred this matter to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") [ECF No. 24]. On August 8, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court grant Defendants' motion to dismiss, deny Young's motion to amend the complaint, and dismiss Young's claims with prejudice.¹

¹ The Magistrate Judge recommended a dismissal with prejudice based on Young's previous unsuccessful attempts to litigate the same, or

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Id. at 25.

The R&R also informed the parties regarding their right to file specific written objections to the magistrate judge's report and recommendation. The magistrate judge gave the parties fourteen (14) calendar days after being served with a copy of the magistrate judge's recommended disposition to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." The R&R further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals."

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial

substantially similar, claims in Civil Action Number 1:21cv35. Id. at n.1.

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Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Young accepted service of the R&R on August 14, 2023, [ECF No. 26]. To date, neither party has objected. The Court is therefore under no obligation to conduct a de novo review and has reviewed the R&R for clear error. Finding none, it:

1. **ADOPTS** the R&R [ECF No. 24] in its entirety;
2. **GRANTS** Defendants' motion to dismiss [ECF No. 12];
3. **DENIES** Young's motion to amend his complaint [ECF No. 15]; and
4. **DISMISSES WITH PREJUDICE** this civil action.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested, at his last known address.

DATED: September 1, 2023



THOMAS S. KLEE
UNITED STATES DISTRICT JUDGE